

UNITED STATES OF AMERICA
BEFORE THE NATIONAL LABOR RELATIONS BOARD
REGION 11

CASE FARMS OF N.C., INC.

Employer ¹

and

Case No. 11-RC-6612

RETAIL, WHOLESALE AND DEPARTMENT STORE
UNION, SOUTHEAST COUNCIL, UFCW

Petitioner ²

REGIONAL DIRECTOR'S DECISION AND DIRECTION OF ELECTION

The Petitioner seeks to represent a unit comprised of all full-time and regular part-time production and maintenance employees, including processing employees, live dock employees, quality assurance employees, sanitation employees and garage employees, employed at the Employer's Morganton, North Carolina facilities, excluding hatchery, feed mill and live haul employees, waste water employees, long haul drivers, trainers, cage repairers, pallet repairers, sales employees, office clerical employees, and professional employees, guards and supervisors as defined in the Act.

At the hearing, the parties mutually agreed to exclude from the bargaining unit a variety of positions, including long haul drivers, trainers, cage repairers, pallet repairers, sales employees, waste water employees and live haul employees. ³ However, the parties were unable

¹ The name of the Employer appears as amended at hearing.

² The name of the Petitioner appears as amended at hearing and as further amended, post hearing, by agreement of the parties, omitting the designation "AFL-CIO-CLC."

³ In its petition, the Petitioner initially sought to represent employees in the classifications of waste water employees, long haul drivers and trainers, but amended its petition at hearing to exclude these classifications. Further, the Employer has agreed that maintenance and garage employees were appropriately included in the bargaining unit.

to reach agreement on the scope and composition of the remainder of the proposed unit. The Employer contends that the petitioned-for unit is inappropriate because it should not include those employees classified as live dock, sanitation and quality assurance employees. The Petitioner maintains that these three classifications of employees share a community of interest with other employees in the unit it seeks to represent and should, therefore, be included in the unit.

The Employer submitted a brief which has been carefully considered. With respect to the three employee classifications at issue, I conclude that they each share a substantial community of interest with employees included in the unit, and I shall, therefore, include them in the bargaining unit found appropriate.

A. BACKGROUND: THE OPERATION OF THE EMPLOYER

The Employer operates a poultry operation in Morganton, North Carolina, which includes a hatchery, feed mill, a building for live haul operations, a building for the live dock operation and a processing plant. The operation begins when the Employer receives chicken eggs from breeder flocks into its hatchery, where six employees work. After the eggs hatch, the Employer sends live chicks to various contract growers, who raise them to mature birds. The chickens are then brought to the processing plant, which is located about five miles from the hatchery. Approximately 570 employees work at the processing plant where they process in the range of 100,000 chickens per day. All transportation of chicks and mature chickens to and from the contract growers is done by employees of the Employer. To do this, the Employer has four live haul crews, each of which has approximately six chicken catchers, one forklift driver, and a truck driver who rotates through the four crews. The live haul crews typically work between midnight

and 8:00 a.m. The live haul crew operations is based out of an office located across the street from the processing plant.

The Employer's feed mill is also located in Morganton approximately three miles from the processing plant. About 20 employees work at the feed mill, in classifications that include truck drivers, feed mill operators, forklift operator, locomotive operator and feed mill workers. The purpose of the feed mill is to enable the Employer to provide feed for the chickens during the period they are being raised by the contract growers.

Once the trucks are loaded with cages of live chickens at the contract growers, they are driven to the scales in front of the live haul operations office. There the chickens are weighed. From there the cages are taken on the same trailers to the live holding sheds located adjacent to the live haul operation office where they remain for between thirty minutes to three hours. At this point, the live dock driver brings the trailers of caged chickens to the live dock, which is located in a building that is 12 to 15 feet away from the processing plant, and that is connected to the plant by a shackle line. Some trailers are again weighed on the same scales so the Employer can determine any weight loss of the chicken that occurred during the time in the holding sheds.

At the live dock, the forklift driver places the cages onto a cage system. A cage operator then dumps the live chickens from the cages onto a conveyor belt which takes the chickens to the live hang area, where ten chicken hangers hang the live chickens by their feet onto a shackle line. From there the live chickens leave the live dock building via the shackle line and enter the processing plant at the picking room.

The processing plant is under the authority of processing plant manager Gary Miller. Miller reports to general manager, Charles Rigdon, who is responsible for all Morganton

operations of the Employer. Similarly, the Employer appears to have one human relations manager, Armando Campos, for all its Morganton operations.

The processing plant is essentially divided by its operations on two separate floors of the plant. The first processing, which is on the second floor, includes the picking room, evisceration department and chillers. The second processing, which includes grading, leg debone, cut-up and front half departments, is located on the first floor.

The processing occurs in the following manner. When the live chickens are hung on the shackle line and leave the live dock area, they enter the picking room. There they are stunned by the stunner machine and then killed by a killing machine, both of which are operated by employees in the picking room. Next, the chickens are processed through scalding and picking and then sent into the evisceration department. The chickens pass through chlorinated water as they leave the picking room and, for the first time, they continue the process under sanitary conditions. The employees in the picking room work from 6:00 a.m. until 3:00 to 4:00 p.m. and earn \$7.65 per hour. The supervisor over the employees in the picking room is also responsible for the 12 live dock employees.

Once in the evisceration department, the chickens are re-hung, cut, processed through various machines, inspected by the U. S. Department of Agriculture (USDA) inspectors, scrubbed, checked for feces, passed through a tri-sodium phosphate cabinet and then moved on to the chillers. There are about 47 employees in the evisceration department. They work from 6:00 a.m. until 3:00 p.m. to 4:00 p.m., and they are paid \$7.65 per hour. They have three direct supervisors.

After the chickens leave the chillers, the second processing begins when the chickens enter the grading department. In this department, the chickens are graded and re-hung on two

separate drip lines according to whether they are rated as Grade A or B. There are eight employees in the grading department. They work from 7:40 a.m. until 5:00 or 6:00 p.m. and receive an hourly pay rate of \$7.65. Employees in the grading department are supervised by four direct supervisors.

Next the chickens enter the front half department in which the chickens are separated by a machine into halves, the front and back. The back half goes to leg processors in the cut-up department where the meat is separated into either leg quarters or whole legs. Employees in the cut-up department work from 7:45 a.m. until 5:00 or 6:00 p.m. and earn \$7.65 per hour.

Larger legs go to certain customers and the rest of the legs go to the leg debone department where the legs are skinned and deboned. The leg meat then goes back on a conveyor and employees in the leg debone department grade, weigh, package and send the meat to the shipping department. There are about 125 employees in the leg debone department. Their hours of work are from 7:45 a.m. to 5:00 or 6:00 p.m., and they are paid \$7.65 per hour. The same four direct supervisors responsible for the grading department also supervise the employees in the cut-up and leg debone departments.

Employees in the front half department place the front halves of the chickens onto cone lines. Next the front halves are cut in various operations so that they are disassembled into tenders, wings and breasts. These chicken parts are then graded and eventually boxed for shipping by front half department employees. In this department there are approximately 175 employees. They begin work at 7:45 a.m. and stop work between 5:00 and 6:00 p.m. They earn \$7.65 per hour and are supervised by four direct supervisors who do not supervise any other employees.

B. LIVE DOCK EMPLOYEES

The twelve live dock employees, including one truck driver, one fork lift driver and ten chicken hangers, work in or out of a building adjacent to the processing plant with only a 12 to 15 foot separation. The live dock truck driver is required to have a commercial driver's license. Inside the processing plant, employees use pallet jacks, so the only forklift is the one used at the live dock. The forklift driver receives training on the use of a forklift and has to be certified by the Employer. The same shackle line which begins in the live dock building continues into the processing plant through the picking room into the evisceration department and to the hot cutter, at which point the chickens drop off. The chickens, which are hung by the ten live dock chicken hangers, are alive when they leave the live dock and when they enter the processing plant. Once in the processing plant the employees in the picking room begin processing these live chickens by first stunning them and then killing them through the use of machines. Employees in both the picking room and at the live dock do not work under sanitary conditions. The shackle line and the chickens are bathed in chlorinated water after they leave the picking room, and this is the sanitation point.

The live dock hangers and the one live dock forklift driver earn slightly more than processing plant employees as they are paid \$8.15 per hour. The live dock truck driver receives \$10.50 per hour. The live dock employees begin work at 5:45 a.m. and finish work between 3:00 and 4:00 p.m. Thus, they have nearly the same hours as the picking room employees and the other processing plant employees. The live dock hangers and processing plant employees both wear blue smocks and similar protective equipment. The processing plant employees wear hair nets, eye goggles and ear plugs. The chicken hangers also wear eye glasses and ear plugs as well as rubberized steel-toed boots and a bump cap. To obtain new equipment or work smocks,

the live dock employees go to the coat room in the processing plant, just as the processing plant employees must do. When employees are needed on a temporary basis to work as chicken hangers in the live dock area, the Employer temporarily transfers processing plant employees to work in the live dock. These appear to be not infrequent transfers as the processing plant manager agreed that an absenteeism problem exists among those employees who hang chickens in the live dock. In the prior eleven years, there have been approximately two processing plant employees who have permanently transferred to work at the live dock. During this same period, about eight live dock employees have permanently transferred into various positions in the processing plant. The record shows that the Employer computes seniority on an employer-wide basis, so the employees who permanently transferred between the live dock and the processing plant carried their seniority with them. Though the live dock area has its own bathrooms, time clock, break room, vending machines and locker room, live dock employees use the cafeteria in the processing plant to take their breaks, and while there, also use the bathroom facilities. Additionally, the same quality assurance employees who work in the processing plant visit the live dock area daily as part of their quality control job duties.

Citing *Purnell's Pride, Inc.*, 252 NLRB 110 (1980), the Employer maintains that the live dock employees should be excluded from the unit because they exclusively handle live chickens, whereas the processing plant employees are mainly concerned with dead chickens. This argument fails to address those employees who operate the stunning and killing machines, in the picking room of the processing plant, and who the Employer agrees should properly be included in the unit. The picking room employees, like the live dock employees, are required to deal with live chickens. The picking room employees, like the live dock employees, do not work in areas or with chickens that have been sanitized.

The live dock employees simply work at the first stage of the total processing operation of the Employer, and each stage is dependent on the operations before it. In this operation, the chickens that are hung on the shackle line in the live dock area continue on the same shackle line through the picking room and the evisceration department. Therefore, the work of the live dock employees is essential to the overall operation of the processing plant of the Employer. Further, the live dock employees work in close proximity to and have frequent contact with processing plant employees. While the Employer maintains that the work of the live dock employees is more closely related to that of the live haul employees, those employees primarily work in the rural areas surrounding Morganton and have virtually no contact with either live dock or processing plant employees.

With the exception of the live dock truck driver, who because of his driving skills is paid more per hour, the live dock employees share comparable hours of work, rates of pay and working conditions, including wearing the same blue smocks, with the employees in the picking room. All employees of the Employer receive the same fringe benefits. The record reflects that live dock employees have regular contact with employees working in the processing plant. Moreover, there is a history of employees transferring between the live dock and the processing plant and vice versa. Also, on a daily basis, employees in the live dock area and the processing plant are subject to the same quality assurance checks. Finally, all of the employees in the live dock area and all the employees in the picking room are under the direct supervision of the same person who, in turn, reports to the processing plant manager. For these reasons, and especially noting that processing plant employees, when required, substitute for absent live dock employees, I find that the employees who work in the live dock area of the Employer share a

substantial community of interest with the employees who work in the processing plant of the Employer, and I shall, therefore, include them in the appropriate bargaining unit.

C. QUALITY ASSURANCE EMPLOYEES

The Employer maintains a quality assurance department which is comprised of two lab technicians, three hazard analysis and critical control point (HACCP) technicians, fourteen quality assurance technicians and five or six yield technicians. They are directly supervised by quality assurance manager, Joshep Savarimuthu, who has the same management level as processing plant manager Gary Miller. Both men report directly to general manager Charles Ridgon, and neither has any authority over the departments of the other.

All quality assurance employees are required to be familiar with both the sanitational standard operating procedures (SSOP) manual and the HACCP manual. They receive a base pay of \$7.65 an hour and an hourly premium pay in the range of 25 to 35 cents per hour. The testimony of one quality assurance technician established that he was paid at a rate of \$7.95 per hour. All quality assurance employees and processing plant employees receive the same fringe benefits. Quality assurance employees wear red smocks, and processing plant employees wear blue smocks. The office for the quality assurance department is located on a third floor of the processing plant where there is also a conference room, the sanitation office and the office for the safety manager. No processing of chickens occurs on this third level.

The two lab technicians check both chickens and processing equipment such as conveyor belts and drip pans for indications of salmonella and e-coli, among other things. After gathering samples from the production floor for testing, the technicians perform their lab tests in a laboratory located in the processing plant near the front half department. The record reflects that

they spend about twenty percent of their time on the production floor and the remainder in the laboratory. Their work hours are from 4:00 a.m. until 2:30 or 3:00 p.m.

There are eight USDA agents stationed in the processing plant of the Employer. The HACCP technicians and the quality assurance technicians work closely with the USDA agents in their mutual inspection for quality issues. Both the USDA agents and the quality assurance employees can close down a processing operation if a problem is discovered. This is generally accomplished by notifying the supervisor in charge. Quality assurance employees have the authority to reject defective product and to notify the supervisor of an employee who is not in compliance with HACCP or SSOP standards. A HACCP inspection would be a random check of chickens on the line to insure that the product is wholesome and that there is no bruising, fecal matter on the chicken, or broken wings. The quality assurance technicians are assigned to the various departments throughout the processing plant where they conduct inspections and compile data. Quality assurance technicians in the evisceration department work from 6:00 a.m. until about 4:00 p.m. Quality assurance technicians assigned to the leg and front half debone departments work from 7:40 a.m. until about 5:00 or 6:00 p.m. The quality assurance and HACCP technicians have four to five stations on the production floor where they take chickens randomly pulled from the processing line for more thorough inspections. Once their inspections are completed, the technicians go to the quality assurance office on the third floor to record their information. One quality assurance employee works full time in the quality assurance office where her responsibilities are mainly record keeping.

The five or six yield technicians in the quality assurance department are primarily responsible for guarding against product loss. They collect the chicken carcass from the processing line, take it to their work station and weigh it. They then scrape any remaining meat

from the carcass and again weigh the carcass. They record data from their work and later record this information in the quality assurance office. Their work station is on the processing floor in the front half department where they perform all their weighing and scraping. They work from 7:40 a.m. until 5:00 or 6:00 p.m.

Due to the nature of their work, many quality assurance employees, particularly the technicians, regularly work along side of processing plant employees. On this point one quality control employee stated he only spends ten minutes in the morning and ten minutes in the afternoon completing paper work in the third floor quality assurance office. The remainder of his work day is spent in the processing plant.

In the past two and a half years, there have been two processing plant employees who have transferred to the quality assurance department. The quality assurance and processing plant employees, besides often working side by side, share the same cafeteria and time clocks; and they take work breaks together. While quality assurance employees are required to know HACCP and SSOP standards, these standards do not appear to be so technical in nature so as to prevent processing plant employees from becoming quality assurance employees if they desire to transfer. Quality assurance employees have uniform benefits with processing plant employees, and the hourly pay rate of quality assurance employees is only slightly higher due to the premium pay given to them. The managers of the quality assurance department and the processing department both report to the same general manager. The proper work of the quality assurance employees is a vital component in the processing operation of the Employer because without their constant sanitary controls the entire processing operation of the Employer is subject to being shut down by the USDA agents also working in the processing plant. Consequently, for the above reasons, especially their close daily contact and common working conditions with

processing plant employees, I find that the quality assurance employees share a substantial community of interest with the other employees included in the unit. I shall, therefore, include the quality assurance employees in the unit found appropriate. *Blue Grass Industries*, 287 NLRB 274, 299 (1987)

D. SANITATION EMPLOYEES

The Employer maintains a sanitation department in which it employs 34 employees. Dean Reece is the sanitation department manager and the one supervisor in the department is Jimmy Race. Reece reports to processing plant manager Gary Miller. The Employer has organized the sanitation employees into three teams with each team headed by an employee team leader. There are six sanitation employees assigned to the picking area, twelve to the evisceration department and sixteen to the second processing department on the first floor. All sanitation employees work Sunday through Friday. Those in first processing, or picking and evisceration, on the second floor report to work at 8:00 p.m. and finish about 5:40 to 5:45 a.m. On Fridays they report to work early between 5:00 and 5:30 p.m. Sanitation employees assigned downstairs in second processing work 8:30 p.m. until about 6:30 or 7:00 a.m. The pay range for sanitation employees is from \$7.05 to \$7.92 per hour with the three team leaders paid \$8.22 per hour.

The work of sanitation employees is essentially cleaning the processing machines for the next day of operation. In their assigned areas of the processing plant, they remove any debris or trash from the processing machines. Then the machines are soaked, rinsed again and finally checked for any unclean areas. During their shift, the sanitation employees clean the entire processing plant including floors and ceilings. This requires them to actually operate the work belts or the conveyor belts and the shackle line, but they do not operate any processing machines.

Sanitation employees do not wear ear plugs or goggles as do processing plant employees, and by the nature of their work, they do not have any contact with chickens. However, sanitation employees wear the same smocks as processing plant employees along with hair nets, protective gloves and boots. The smocks for sanitation and processing plant employees are obtained by the employees at the same coat room located inside the processing plant.

Employees in first processing on the second floor of the plant report to work while sanitation employees who are cleaning in second processing on the first floor are still working. Despite this overlap in work time, however, there does not appear to be any contact during work between the two employee groups. According to a witness for the Employer, in the seven months before the hearing, there have been no employee transfers between sanitation and processing plant employees; but prior to that, at least one employee did transfer from a processing plant position to the sanitation department. However, a sanitation employee called as a witness by the Petitioner identified two employees who had transferred from the processing plant to the sanitation department, with one transfer being just a few days before the hearing. When employees are needed for a brief time to work in the sanitation department, they are secured through a temporary employment service. If the Employer needs sanitation employees on a permanent basis, the Employer does the hiring. Training for new sanitation employees generally consists of on-the-job training conducted by one of the three team leaders.

The record is clear that the work of the sanitation employees is an essential element of the entire operation of the Employer. Indeed, due to hygienic concerns, processing plant employees are not permitted to enter their work areas until the sanitation employees have finished their work and have actually departed. At times sanitation employees are required to wait in the cafeteria in the evening until processing plant employees have finished their work and vacated

the processing plant. Thus, on occasions, the sanitation employees have not been permitted to begin work until 9:00 or 10:00 p.m. When this happens and when, on Fridays, the sanitation employees report to work early between 5:00 and 5:30 p.m., the sanitation employees and processing plant employees use the plant cafeteria at the same time. The sanitation and processing plant employees also use the same time clocks.

Again relying on *Purnell's Pride*, supra, the Employer argues that the sanitation employees should be excluded from the bargaining unit because they work at night and the processing plant employees work during the day. However, this arrangement of work schedules does not appear to be much in variance from an operation which requires employees of the same Employer to work on two or more different eight-hour shifts. Rather, because sanitation employees are responsible for cleaning the very same processing machines and equipment that the processing employees operate each day, there is a close coordination of employee tasks in this integrated operation. Despite their differences in work schedules, the sanitation department and processing plant employees, unlike the employee groups in *Purnell's Pride*, supra, do have the opportunity for frequent contact, and work in the same plant with similar working conditions. They also share common benefits provided by the Employer. While the pay for sanitation employees is more per hour than that of processing plant employees, the difference is not so great as to defeat a finding of community of interest. Moreover, it appears that if processing plant employees desire to earn the higher rate, they may transfer to the sanitation department, as one employee has recently elected to do. Finally, absent unusual circumstances, the Board generally includes sanitation employees in production and maintenance units. See *Pabst Brewing Company*, 109 NLRB 371, n. 4 (1954) (sanitation workers at brewery found to be a residual group who shared sufficient community of interest with production employees to be

included in the unit; Board notes that janitors are generally included in production and maintenance units).

For the above reasons, especially uniform fringe benefits, close coordination of employee tasks in the same work areas in an integrated operation, and opportunity for transfer, I find that the sanitation employees of the Employer maintain a substantial community of interest with those employees in the processing plant. I shall, therefore, include the sanitation employees in the appropriate bargaining unit.

. **E. CONCLUSIONS AND FINDINGS**

Based upon the entire record in this matter and in accordance with the discussion above, I conclude and find as follows:

1. The hearing officer's rulings made at the hearing are free from prejudicial error and are affirmed.
2. The Employer is engaged in commerce within the meaning of the Act, and it will effectuate the purposes of the Act to assert jurisdiction in this case.
3. The Union involved claims to represent certain employees of the Employer.
4. A question affecting commerce exists concerning the representation of certain employees of the Employer within the meaning of Section 9(c)(1) and Section 2(6) and (7) of the Act.
5. The following employees of the Employer constitute a unit appropriate for the purpose of collective bargaining within the meaning of Section 9(b) of the Act:

All full-time and regular part-time production and maintenance employees, including processing employees, live dock employees, quality assurance employees, sanitation employees, and garage employees employed by the Employer at its Morganton, North Carolina, facilities, excluding hatchery, feed mill and live haul employees, waste water employees, long haul drivers, trainers, cage repairers, pallet repairers, sales employees, office

clerical employees, and professional employees, guards, and supervisors as defined in the Act.

F. DIRECTION OF ELECTION

The National Labor Relations Board will conduct a secret ballot election among the employees in the unit found appropriate above. The employees will vote whether or not they wish to be represented for purposes of collective bargaining by Retail, Wholesale and Department Store Union, Southeast Council, UFCW. The date, time, and place of the election will be specified in the notice of election that the Board's Regional Office will issue subsequent to the Decision.

1. Voting Eligibility

Eligibility to vote in the election are those in the unit who were employed during the payroll period ending immediately before the date of this Decision, including employees who did not work during that period because they were ill, on vacation, or temporarily laid off. Employees engaged in any economic strike, who have retained their status as strikers and who have not been permanently replaced are also eligible to vote. In addition, in an economic strike which commenced less than 12 months before the election date, employees engaged in such strike who have retained their status as strikers but who have been permanently replaced, as well as their replacements are eligible to vote. Unit employees in the military services of the United States may vote if they appear in person at the polls.

Ineligible to vote are (1) employee who have quit or been discharged for cause since the designated payroll period; (2) striking employees who have been discharged for cause since the strike began and who have not been rehired or reinstated before the election date; and (3) employees who are engaged in an economic strike that began more than 12 months before the election date and who have been permanently replaced.

2. Employer to Submit List of Eligible Voters

To ensure that all eligible voters may have the opportunity to be informed of the issues in the exercise of their statutory right to vote, all parties to the election should have access to a list of voters and their addresses, which may be used to communicate with them. Excelsior Underwear, Inc., 156 NLRB 12367 (1966); NLRB v. Wyman-Gordon Company, 395 U.S. 759 (1969).

Accordingly, it is hereby directed that within 7 days of the date this Decision, the Employer must submit to the Regional Office an election eligibility list, containing the full names and addresses of all the eligible voters. North Macon Health Care Facility, 315 NLRB 359, 361 (1994). This list must be of sufficiently large type to be clearly legible. To speed both preliminary checking and the voting processes, the names on the list should be alphabetized (overall or by department, etc.). Upon receipt of the list, I will make it available to all parties to the election.

To be timely filed, the list must be received in the Regional Office, 4035 University Parkway, Suite 200, P.O. Box 11467, Winston-Salem, North Carolina, 27116-1467, on or before **Thursday, August 18, 2005**. No extension of time to file this list will be granted except in extraordinary circumstances, nor will the filing of a request for review affect the requirement to file this list. Failure to comply with this requirement will be grounds for setting aside the election whenever proper objections are filed. The list may be submitted by facsimile transmission at (336) 631-5210. Since the list will be made available to all parties to the election, please furnish a total of **two** copies, unless the list is submitted by facsimile, in which case no copies need be submitted. If you have any questions, please contact the Regional Office.

3. Notice of Posting Obligations

According to Section 103.20 of the Board's Rules and Regulations, the Employer must post the Notices to Election provided by the Board in areas conspicuous to potential voters for a minimum of 3 working days prior to the date of the election. Failure to follow the posting requirement may result in additional litigation if proper objections to the election are filed. Section 103.20(c) requires an employer to notify the Board at least 5 full working days prior to 12:01 a.m. of the day of the election if it has not received copies of the election notice. Club Demonstration Services, 317 NLRB 349 (1995). Failure to do so estops employers from filing objections based on non-posting of the election notice.

G. RIGHT TO REQUEST REVIEW

Under the provisions of Section 102.67 of the Board's Rules and Regulations, a request for review of this Decision may be filed with the National Labor Relations Board, addressed to the Executive Secretary, 1099 14th Street, N.W., Washington, D.C. 20570. The Board in Washington must receive this request by **August 25, 2005**. The request may not be filed by facsimile.

Dated at Winston-Salem, North Carolina, this 11th day of August, 2005.

/s/ Willie L. Clark, Jr.

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